



WEB COPY



W.P.No.21274 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	09.01.2023
PRONOUNCED ON	:	28.02.2023

CORAM :

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P.No.21274 of 2005
and W.M.P.No.23357 of 2022

1.The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
Kamarajar Salai,
Chepauk, Chennai 600 005

2. The Assistant Executive Engineer,
Tamil Nadu Water Supply and Drainage Board,
Urban Sub-Division,
Sankari

... Petitioners

Vs.

1. The Presiding Officer,
Labour Court, Salem.

2. Mr.Karunagaran,
Tiruchengode Water Supply Scheme,
Avathipalayam, Pallipalayam,
Namakkal.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India,
praying for issuance of Writ of Certiorari, calling for the records in



W.P.No.21274 of 2005

C.P.No.680/2002 on the file of the first respondent dated 29.11.2004 and quash the same.

WEB COPY

For Petitioners : Mr.S.Ravindran, Senior Counsel
For Mrs.S.Mekhala

For R-2 : Mr.AjayKhose,
For Mr.M.Muthupandian

* *R1- Court*

ORDER

Challenging the Award passed by the Labour Court, Salem in C.P.No.680/2002, dated 29.11.2004, the petitioner- Tamil Nadu Water Supply and Drainage Board, has preferred the present writ petition.

2. The second respondent herein/workman had filed a petition before the Labour Court, Salem in C.P.No.680 of 2002 under Section 33 C (2) of I.D.Act, claiming a sum of Rs.3,28,338/- with interest from the Management. The Labour Court granted an Award in favour of the workman, thereby directing the Management to pay the sum claimed by the second respondent/workman with 6% interest from the date of petition till the date of realisation.



W.P.No.21274 of 2005

WEB COPY

3. According to the learned counsel for the petitioner/Management, the second respondent herein was appointed as an Electrician, on daily wage basis, on 15.11.1992 and his service was terminated on 17.01.1994. Aggrieved over the order of termination, the second respondent had raised a dispute before the Labour Court, Salem and an Award came to be passed on 28.08.1997, by which the second respondent was reinstated in service. According to the Management, from 18/1/1994 to 14/10/1997, the 2nd respondent/workman was working in the Tiruchengode Municipality as a daily-wager. However, as against the Award passed by the Labour Court in I.D.No.6/97, the petitioners herein/Management had filed a writ petition in W.P.No.14328 of 1998 and this Court, dismissed the said writ petition, holding that the parties are satisfied with the settlement under Section 12(3) of the Act.

4. The main contention of the learned counsel for the petitioners is that the second respondent was gainfully employed in the Tiruchengode Municipality and therefore, the Award passed by the Labour Court in



W.P.No.21274 of 2005

C.P.No.680/2002, dated 29.11.2004, directing the petitioners to pay the claimed sum is erroneous one and hence, prayed to set aside the same.

WEB COPY

5. Per contra, the learned Senior counsel appearing on behalf of the second respondent/workman would submit that the Award passed by the Labour Court is a well reasoned one and the same deserves no interference by this Court and prayed for dismissing the writ petition.

6. Heard the learned counsel for the petitioners and the respondent and perused the materials placed before this Court.

7. Based on the claim petition averments, counter, oral and documentary evidence, the Labour Court, found that the High Court has already confirmed the Award regarding backwages ordered in ID.6/97 in W.P.No.14188 of 1998. The Labour Court, categorically held that when the Court finds that the order of dismissal is not justified, then, the workman is entitled to all the benefits including backwages. It has also been pointed out that in order to eke-out his livelihood, the second respondent had to earn



W.P.No.21274 of 2005

something to maintain his family. Merely because he was earning something for his livelihood, it cannot be said that the second respondent is disqualified from getting the backwages. The Labour Court also observed that the defence of gainful employment has been raised for the first time in Section 33(c)(2) proceedings and not in I.D.No.6/97 and the claim is based on the Award which included backwages.

8. The Labour Court also gone into the question of entitlement of the backwages in the Award and answered that in view of the conditions laid down in 12(3) settlement, an employee who has completed 480 days in two years are entitled to permanent status and also for refixation of salary and as such held that refixation of salary shall be granted to the workman from 01.06.1996. The Labour Court, thus allowed the Claim Petition and directed the Management to pay a sum of Rs.3,28,338/- with 6% interest from the date of petition till the date of realisation to the workman.

9. In the considered opinion of this Court, the conclusion reached by the Labour Court in the Claim Petition No.680 of 2002 is well founded and



W.P.No.21274 of 2005

the order does not warrant interference. The Writ Petition is devoid of merits and accordingly, stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

28.02.2023

Index : Yes/No
Speaking Order : Yes/No

sts



W.P.No.21274 of 2005

To:

WEB COPY

1. The Presiding Officer,
Labour Court, Salem.
2. Mr.Karunagaran,
Tiruchengode Water Supply Scheme,
Avathipalayam, Pallipalayam,
Namakkal.



WEB COPY



W.P.No.21274 of 2005

J.NISHA BANU, J.,

sts

Order made in
W.P.No.21274 of 2005

Dated:
28.02.2023